

Message Text

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ACTION ARA-14

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TO SECSTATE WASHDC 5062

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SUBJECT: CONGRESSIONAL INQUIRY - ETS DE PANAMA AND ETS CANAL ZONE

REF: STATE 306636

1. BEGIN UNCLASSIFIED. SUMMARY. THE PROBLEMS CONFRONTING THE SUBJECT MOVING AND STORAGE COMPANIES ARE ALLEGED MANIPULATION OF COMPANY SHAREHOLDINGS BETWEEN PANAMANIAN AND AMERICAN PARTNERS AND FAILURE TO SETTLE THEIR INDEBTEDNESS TOWARD A COLOMBIAN BANK. THE LATTER CLAIMED DUBIOUS HANDLING OF SUBJECT COMPANIES' FUNDS BY THE AMERICAN PARTNERS AND HAS TAKEN APPROPRIATE LEGAL STEPS TO ASSURE COLLECTION OF ITS MONEY. THE BANK IS NOW STUDYING A PROPOSED REPAYMENT PLAN SUBMITTED BY THE AMERICAN PARTNERS. THE EMBASSY'S ROLE WAS TO EXPRESS INTEREST AND TO ENCOURAGE THE DISPUTING PARTIES TO PURSUE NEGOTIATIONS WITH THEIR LAWYERS IN AN EFFORT TO REACH AN AMICABLE SOLUTION. SENATOR MATSUNAGA FROM HAWAII HAS INQUIRED ABOUT THE DISPUTE. END SUMMARY

2. FOLLOWING BASED ON REPORTS TO EMBOFF BY JIM YARBROUGH JR., DECEMBER 9 AND 12; BY TELCON JIM YARBROUGH, SR., HONOLULU, HAWAII, DECEMBER 12; AND EMBOFF MEETING WITH HERNANDO PEREZ ORTEGA, GENERAL MANAGER, BANCO DE
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BOGOTA (BDB) DECEMBER 16.

3. ETS BEGAN OPERATION IN SEPTEMBER 1973 AFTER TAKING OVER ASSETS OF TRANSPORTES BAXTER, UNDER AGREEMENT WITH BDB WHICH HAD A SUBSTANTIAL CLAIM AGAINST BAXTER. ETS AGREED TO ASSUME THE DEBT AND SET UP REPAYMENT SCHEDULE. ETS INITIALLY RESTRICTED ITS ACTIVITIES TO THE CANAL ZONE,

BUT IT WAS STILL NECESSARY TO NAME A TITULAR PANAMANIAN PRESIDENT. MR. ROBERTO TORRES WAS APPOINTED AND DUE TO "PATENTE" REQUIREMENTS ALL THE STOCK WAS ISSUED IN TORRES' NAME, ALTHOUGH THE REAL OWNERS WERE JIM YARBROUGH, SR., AND ANOTHER PARTNER, WHO HAS SINCE DIED. JIM YARBROUGH, JR., WAS ETS' EXECUTIVE VICE PRESIDENT.

4. SUBSEQUENTLY, ETS DE PANAMA WAS SEPARATELY CREATED TO OPERATE EXCLUSIVELY IN THE REPUBLIC OF PANAMA. FOLLOWING LEGAL ADVICE, NINETY PER CENT OF THE SHARES WERE ISSUED TO TORRES NAME AND THE REMAINDER BETWEEN YARBROUGH, SR., AND HIS PARTNER. A CORPORATE RULE STATED THAT NINETY-ONE PER CENT OF THE VOTING STOCK WAS NECESSARY FOR ANY DECISION MAKING. HOWEVER, IN MARCH 1976, YARBROUGH, JR., DISCOVERED THAT TORRES HAD INCREASED COMPANY'S STOCK FROM ONE THOUSAND SHARES TO THREE THOUSAND WITH THE SHARES IN TORRES' NAME. THE YARBROUGHS CALLED FOR TORRES' RE-SIGNATION, BUT HE REFUSED.

5. YARBROUGH, JR., TRIED TO DEVISE ANOTHER CORPORATE STRUCTURE THAT WOULD LEAVE ETS-CANAL ZONE A "SHELL," BUT THE PLAN WAS DISCOVERED AND LEAKED TO BDB. YARBROUGH, JR., ADMITTED THAT HIS SCHEME COULD APPEAR TO BE AN ATTEMPT AT DEFRAUDING BDB, BUT THAT THIS WAS NOT HIS INTENTION. HE MAINTAINED THAT HIS EFFORTS TO EXPLAIN THE SITUATION TO BDB HAD BEEN UNSUCCESSFUL. DURING THANKSGIVING LIMITED OFFICIAL USE

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WEEK, ADMINISTRATORS FOR BOTH ETS DE PANAMA AND ETS-CANAL ZONE WERE APPOINTED BY BDB. YARBROUGH, JR., HAS SINCE BEEN BARRED FROM ANY CONTACT WITH HIS OFFICES. END UNCLASSIFIED.

6. YARBROUGH, SR., FROM HONOLULU, CLAIMED TO HAVE INFORMATION WHICH WOULD LINK TORRES TO THE "VESCO CASE" AND THAT THIS INFORMATION WOULD DAMAGE THE PRESIDENT. HE THREATENED SENATORIAL ACTION IF THE EMBASSY WAS DOING NOTHING TO PROTECT HIS PROPERTY IN PANAMA. EMBOFF MOLLIFIED HIM BY POINTING OUT HIS SON WAS ALREADY IN CONTACT WITH THE EMBASSY WHICH PROMISED TO LOOK INTO THE MATTER.

7. BEGIN UNCLASSIFIED. PEREZ OF BDB MENTIONED HIS BANK NOW DEALING WITH THE YARBROUGHS ONLY THROUGH LAWYERS, LARGELY BECAUSE OF ELDER YARBROUGH'S ABUSIVENESS AND INCOHERENCE IN HIS NUMEROUS TELEPHONE AND CABLE COMMUNICATIONS. PEREZ INDICATED BDB HAS DOCUMENTARY EVIDENCE TO THE EFFECT THAT YARBROUGH, JR., HAD DIVERTED COMPANY FUNDS TO HIS OWN USE. BDB'S ADMINISTRATORS NOW TRYING TO STRAIGHTEN OUT THE FISCAL MESS.

8. ACCORDING TO PEREZ, BDB PRESENTLY STUDYING PLAN SUB-

MITTED BY YARBROUGH, JR., WHICH INCLUDES CASH DEPOSITS
AND OUTSIDE AUDITORS AS GUARANTEES FOR SETTLEMENT OF
ETS' INDEBTEDNESS TOWARD BDB, PEREZ SAID HE PLEASED
WITH PRESENTLY-IMPROVED SITUATION TO THE EXTENT THAT THERE
ARE NOW BUSINESS-LIKE NEGOTIATIONS INSTEAD OF MUD-SLINGING
AND THREATS. (THIS DEVELOPMENT ALSO RECENTLY CONFIRMED BY
YARBROUGH, JR., WHO APPEARED OPTIMISTIC IN THE OUTCOME OF
HIS DISPUTE WITH BDB.) PEREZ ALSO STATED THAT HE FULLY
AWARE OF PROBLEMS BETWEEN THE YARBROUGHS AND TORRES, BUT
POINTED OUT BDB'S SOLE OBJECTIVE WAS TO MAKE CERTAIN THAT
ETS PAID ITS DEBT. END UNCLASSIFIED.

9. YARBROUGH, JR., WAS APPRECIATIVE OF EMBASSY'S EXPRESSED
INTEREST IN THE MATTER AND ESPECIALLY ITS APPROACHING BDB.
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HOWEVER, HE WAS TOLD THAT EMBASSY CAN DO LITTLE MORE THAN
APPLY MORAL SUASION IN MATTERS OF THIS SORT AT THIS STAGE
AND THAT HIS INTERESTS AND THOSE OF HIS FATHER WOULD BEST
BE SERVED BY PURSUING THE MATTER WITH THEIR LAWYERS IN
EFFORT TO SETTLE THEIR PROBLEMS AMICABLY.
JORDEN

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